

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18/11/2004

Coram

The Hon'ble Mr.Justice V.KANAGARAJ

Crl.R.C.No.1755 of 2004

and

Crl.M.P.No. 10520 of 2004

1.P.Palanisamy

2.Lalitha Palanisamy

3.K.Chilambuchelvan ... Petitioners

-Vs-

State rep. by

Inspector of Police

Crime Branch C.I.D.

Namakkal.

(Cr.No.9 of 2001) ... Respondent

Revision filed under Sections 397 and 401 Cr.P.C. Praying for
as stated below.

For Petitioners : Mr. Govindaraj

For Respondent : Mr. E.Raja,

Addl.Public Prosecutor

:O R D E R

The above criminal revision case has been filed praying to set
aside the order passed in Crl.M.P.No.3115 of 2004 in C.C.No. 92 of 2003 on
the file of the Judicial Magistrate No.II, Namakkal dated 8-10-2004.

2. The learned counsel for the petitioners would submit
that the petitioners are running an institution in the name of "Director,
Tamilnadu Paramedical Training School, 26, Agraharam, Mohanur, Namakkal
District 637 015"; that they advertised in Daily Thandhi on 6-6-1998 for the
purpose of giving nurse training course; that no promise for job security was
given in that advertisement and hence, the charges against the petitioners are
vexatious and that they have a good reputation in the Society. On such
grounds, the petitioners have come forward to file the above Criminal Revision
Case praying for the relief extracted supra.

3. Learned Additional Public Prosecutor would submit that

giving attractive advertisement in Daily Thandhi the petitioners succeeded in getting 18 students admitted themselves in their institution; that the said institution run by them was registered only under the Tamil Nadu Societies Registration Act, 1975, without obtaining the due recognition from the competent forum; that their ulterior motive is to cheat and grab a considerable sum from the students and hence, would pray to dismiss the Revision Case.

4. On a perusal of the materials made available before this Court and upon hearing the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent, what comes to be known is that a case under Sections 420, 468, 471 read with 468 and 506 (ii) IPC has been registered against the petitioners and it further comes to be known that the respondent having exhausted his investigation has also filed the chargesheet based on which, now the case is very much ripe for trial and in the above circumstances, the petitioners have come forward with the above Criminal Revision Case seeking to set aside the order made by the lower Court on 08-10-2004 in dismissing the discharge petition filed on the part of the petitioners.

5. A perusal of the order passed by the lower Court would reveal that the lower Court not only tracing the facts and circumstances encircling the whole case, but also having framed its own point for consideration of the discharge petition filed under Section 239 of Cr.P.C. and further, has ultimately arrived at the conclusion to hold that there are sufficient grounds to further processing the proceedings to be held against the petitioners, since prima facie case has been made out, thus finally dismissing the discharge petition filed by the petitioners, against which the petitioners have come forward to file the above Criminal Revision Case.

6. The only point for consideration that is before this Court in the circumstances of the case, as it is revealed is that when the trial of the case is shortly to commence, whether it is necessary on the part of this Court to cause its interference by means of the above Criminal Revision Case making use of its inherent powers conferred by law under Section 482 of Cr.P.C. sitting on the subjective satisfaction of the case in issue, while the trial Court is ready to decide the same on trial in an objective manner, with due opportunity for both parties to be heard in full for a valid judgment to be delivered in total appreciation of the facts and circumstances of the case the law pertaining to the subject and the evidence placed on record.

7. In these circumstances which are prevalent in the case in hand, it is always desirable to allow the trial Court to conduct the trial and decide the matter objectively in total appreciation of everything connected to the case and hence, this Court besides being fully satisfied that the lower Court has arrived at its right conclusion in the manner that it has to be arrived at the interference of this Court sought to be made into the decision of the lower Court in dismissing the discharge petition filed under Section 239 Cr.P.C. is felt neither necessary nor required in the circumstances of the case and the only order that could be passed in the given case is as

under:

In result,

(i) the above Criminal Revision Case does not merit admission and becomes liable to be dismissed at the admission stage itself and the same is dismissed accordingly;

(ii) the order dated 08-10-2004 made in Crl.M.P.No. 3115 of 2004 in C.C.No.92 of 2003 by the Court of Judicial Magistrate II, Namakkal, is confirmed;

(iii) consequently, Crl.M.P.No.10520 of 2004 is also dismissed.

Index: Yes

Internet: Yes

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To

1. Inspector of Police
Crime Branch C.I.D.
Namakkal.

2. The Judicial Magistrate II
Namakkal.

3. -do- thro' The C.J.M., Namakkal.

4. The Public Prosecutor,
Madras.

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